

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

HITUL GANDHI, individually and)
on behalf of a class of others similarly)
situated,)

Plaintiffs,

V.

Case No.: 08-CV-0248

DELL INC. and)
DELL MARKETING USA, L.P.)

Defendants.

**PLAINTIFFS' UNOPPOSED BRIEF TO EXPEDITE CONSIDERATION
REGARDING THEIR MOTION
TO ENFORCE THE COURT'S OCTOBER 20 ORDER DIRECTING CLASS NOTICE**

Plaintiffs respectfully ask the Court to expedite consideration of their pending motion to enforce the Magistrate's October 20 Order directing class notice. (Dkt. No 150) Expedited consideration of Plaintiffs' motion is warranted to protect the claims of putative plaintiffs from the statute of limitations because absent agreement by the parties or equitable or other tolling, the statute of limitations continues to run against putative plaintiffs' Fair Labor Standards Act claims until they affirmatively join this certified collective action.¹ *Sandoz v. Cingular Wireless LLC*, 553 F.3d 913, 916-17 (5th Cir. 2008). Until these putative plaintiffs receive Notice, they cannot know and decide whether they wish to join this case and preserve their claims.

Dell has already provided the third party administrator with contact information for the 2,544 persons that all parties agree are covered by the court's definition of "business sales

¹ According to numbers provided by Dell, at least 809 individuals have already lost their claims, absent tolling, to the statute of limitations since this case was filed, despite never having received Notice of its existence. (Doc. #150 at n.1.) This demonstrates the urgency of this dispute.

representative.” Dell will not agree to toll the claims, but has agreed not to oppose Plaintiffs’ request for expedited consideration.

DATE: December 17, 2009

Respectfully submitted,

STUEVE SIEGEL HANSON LLP

/s/ George A. Hanson

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on the Court's CM/ECF system on December 17, 2009, and delivered to counsel of record.

/s/ George A. Hanson

George A. Hanson

Attorney for Plaintiffs